

The ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance, Inc
P.O. Box 6060
Boulder, CO 80306

March 31,

2006

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Ex Parte Submission**

73, 74
Facilitate the
Broadband Access,
Services in the 2150-2162 and 2500
Bands

WT Docket No. 03-66. Amendment of Parts 1, 21,
and 101 of the Commission's Rules to
Provision of Fixed and Mobile
Educational and Other
- 2690 MHz

Dear Ms. Dortch:

John Primeau and I, directors of The ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance, Inc. ("IMWED"), spoke yesterday with Dana Shaffer and John Grant of Commissioner Tate's staff. John Primeau participated by telephone. I participated in person.

We set forth the background concerning the Commission's regulation of the Educational Broadband Service (EBS), and its predecessor, the Instructional Television Fixed Service (ITFS). We urged that the Commission protect the educational character of EBS by a variety of means, including the limiting the length of EBS leases, and requiring transparency and public disclosure of EBS leases.

We stated that, based upon the contents of the Commission's Report and Order in the above-captioned proceeding, the FCC's current policies require that EBS lease terms be limited to 15 years, and we support that limit. We stated that, based upon our lengthy experience with EBS leasing, we expect that there will be continued demand for the use of EBS spectrum for commercial purposes, even with such a limit in place.

We acknowledged that commercial interests have argued on reconsideration that the longstanding lease term limit has been eliminated by the application of the FCC's secondary market rules. We alluded to a lease entered into between the Clarendon Foundation and Sprint Corporation that provides for minimal educational service and can be perpetual, if allowed by the FCC and

desired by Sprint. A copy of that lease has been entered into the record in the above-captioned proceeding. We criticized perpetual leases as unacceptable, as they are analogous to reallocation of EBS spectrum to commercial use.

We advocated that the Commission require the filing of EBS leases along with transfer applications as a means of allowing the public to serve as watchdogs over whether such contracts conform to the Commission's policies, even if it permits the redacting of financial information. We reviewed the fact that the record in this proceeding reveals that a number of EBS licensees filed inconsistent information about the length of leases they have entered into. Based upon the accounts of these licensees, our assessment is that the *de facto* transfer applications they filed did not disclose the fact that the spectrum lessee has the right to continue to use excess capacity for longer than 15 years---a period of time that we believe is longer than permitted by Commission policy. In our view, these licensees' failure to disclose the true length of their recent leases illustrates the need for transparency and public disclosure with respect to the contents of EBS leases.

By e-mail, I today supplied Ms. Shaffer and Mr. Grant with hyperlinks to filings in the record of the above-captioned docket which substantiate IMWED's position. A list of those links is attached to this letter.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, we are submitting this summary of the presentation by filing an electronic copy of this letter in the public record of the proceeding.

Respectfully submitted,

/s/ John B. Schwartz

John B. Schwartz
Director

cc Dana Shaffer
John Grant

Hyperlinks Provided to Dana Shaffer and John Grant by E-mail on March 31, 2006

IMWED pleading describing inconsistent information submitted by EBS licensees concerning the length of their excess capacity leases. (filed 1/9/06)

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208102

Letter of School District of Clay County (FL) to the Commission stating that its lease term is greater than 15 years in duration

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208103

De facto transfer lease application of the School District of Clay County (FL) and Fixed Wireless Holdings

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208104

Amendment to *de facto* transfer lease application of the School District of Clay County (FL) and Fixed Wireless Holdings

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208105

Letter of Concordia University to the Commission stating that its lease term is greater than 15 years in duration

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208106

De facto transfer application of Concordia University and Gryphon Wireless

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208107

Exhibit to *De facto* transfer application of Concordia University and Gryphon Wireless

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208110

Letter of Heritage Christian Academy stating that its lease term is greater than 15 years in duration

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208114

De facto transfer application of Heritage Christian Academy and Fixed Wireless Holdings

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518208116

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Ex Parte filing (2/10/06) of Concordia University and Gryphon Wireless addressing the inconsistencies in prior filings

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518327988

Ex parte filing (2/2/06) of the School District of Heritage Christian Academy addressing the inconsistencies in prior filings

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518320038

Ex parte filing (2/3/06) of the School District of Clay County (FL) addressing the inconsistencies in prior filings

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518320850